***

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R. S .A. No. 3338 of 2006
Date of decision: 18.12.2007

State of Haryana and others **...Appellants**

Versus

Jagbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Rajeev Kawatra, Senior Deputy Advocate General, Haryana

****

RAJESH BINDAL, J.

The defendants are in appeal against concurrent findings of fact by both the Courts below whereby suit for declaration and consequential relief of permanent injunction filed by respondent no.1-/ plaintiff was decreed.

The claim set up by respondent no.1/plaintiff in the suit was that Rehta Ram son of Punu Ram, Jagmal, Bhagat Ram, Kali Ram, Dharma sons of Tulsi and Tulsi son of Rama were owners in possession of land covered by Rect. No. 13, Khasra No. 23 alongwith other land which they sold to Swaran Singh, Lakhwinder Singh, Jagtar Singh, Gurcharan Singh sons of Anokh Singh vide sale deed registered on June 21, 1969 for a consideration of Rs. 8,500/- and the possession was also delivered to them. Plaintiff and defendants No. 4 and 5 purchased the above said land including Rect. No. 13, Khasra No. 23 from the said Swaran Singh and others by way of different sale deeds dated June 8, 1979, June 21, 1979, June 29, 1979 and April 3, 1980. Possession was also delivered by the above said vendors Swaran Singh and others to the plaintiff and defendants No.4 and 5. In the revenue record, in the column of possession the entry was shown as 'Arazi Matruka Gair Marusi Awal'. However, in the column of ownership names of Swaran Singh and others, vendors of respondent no.1/plaintiff were shown. Though both the parties produced revenue

***

record pertaining to period from 1954-55 onwards on record, however, appellants/defendants could not deny the fact that name of Tehsildar (Sales) and Custodian Department has not been recorded in the column of ownership in the Jamabandis. No material was placed on record by the appellants/defendants to show as to in what manner the entry in the revenue record in the column of possession came to be recorded as Arazi Matruka Gair Marusi Awal' when from the very beginning in the column of ownership, the entries of predecessor-in-interest of respondent no.1/plaintiff are recorded. Further there is no material produced on record by the appellants/defendants to substantiate the plea that property belonged to the Custodian Department as against the positive evidence led by respondent no.1 /plaintiff to the effect that they are owner in possession of property by way of registered sale deeds in their favour by the vendors, who were duly recorded in the revenue record as owners of the property. Even this could not be proved on record by the appellants/defendants that land in question was initially left by the Muslims at the time of partition. Once, there was no evidence produced on record by the appellants/defendants to substantiate the plea that the property belonged to the Custodian Department, the same having been declared to be so, no right whatsoever will vest in them. Rather the record shows that even before partition, Rehta Ram was owner in possession of the property, who sold the same to Swaran Singh and others vendors of the respondent no.1/plaintiff. With this material on record, learned trial Court decreed the suit in favour of respondent no.1/plaintiff. Even before the Lower Appellate Court, the appellants failed as nothing on record could be pointed out to substantiate their plea.

Section 7 (3) of the Administration of Evacuee Property Act, 1950 (for short “the Act”) provided that from time to time any property is required to be declared evacuee property and in the present case in the absence of any declaration also, the same could not be held to be evacuee property vested in the appellants/respondents.

Even before this Court though a number of adjournments were sought by the appellants/defendants to show that property infact vested in the Custodian Department but nothing could be shown to substantiate that

***

plea. Both the Courts below have recorded categoric finding to the effect that property belonged to the private persons before even partition of the country took place and infact the same was purchased by respondent no.1/plaintiff by way of registered sale deed from Rehta Ram, who was duly recorded as owner in the revenue record.

With this material on record, which has rightly been appreciated by both the Courts below in decreeing the suit of respondent no.1/plaintiff, I do not find any substantial question of law arises in the present appeal and the same is, accordingly, dismissed.

December 18, 2007 **(Rajesh Bindal)**
Pka **Judge**